

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)

MARILYN WELLS, D.O.)
Holder of License No. 2111 for the)
practice of osteopathic medicine in the)
State of Arizona.)
_____)

**FINDINGS OF FACT, CONCLUSION
OF LAW, AND ORDER OF SUMMARY
SUSPENSION**

The Arizona Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") held a public meeting on August 23, 2000, regarding Marilyn Wells, D.O. (hereinafter "Respondent"). Following the Board's review of information and evidence obtained pursuant to A.R.S. § 32-1855 and § 32-1855.01, and having considered the evidence and information in the matter and being fully advised, the Board enters the following Findings of Fact, Conclusions of Law and Order of Summary Suspension, pending proceedings for revocation or other action.

FINDINGS OF FACT

1. The Board is empowered, pursuant to A.R.S. § 32-1800, et seq to regulate the licensing and practice of osteopathic medicine in the State of Arizona.
2. Respondent is a licensee of the Board and the holder of License No. 2111 for the practice of osteopathic medicine in the State of Arizona.
3. Information was brought to the attention of the Board that Respondent may be medically and/or psychologically unable to safely and skillfully engage in the practice of medicine and/or may have committed one or more acts of unprofessional conduct as defined in A.R.S. § 32-1854:

- a. On or about November 10, 1998 the Board received information from a Gary Lohmeier, R.Ph., pharmacist for S & G Pharmacy alleging that Respondent was attempting to acquire Demerol injectible under a false identity. On November 11, 1998 the pharmacy clerk at the S & G Pharmacy provided a positive identification to the Board's Staff from the licensing photograph of Respondent stating that Respondent had attempted to receive 30ml MDV Demerol injectible under the name of Mary Taylor prescribed by Respondent.
 - b. On November 10, 1998 a prescribing history was requested of Walgreen's corporate office which was received on November 20, 1998. The Walgreen's prescribing history for Respondent noted that Respondent was prescribing Demerol injectable to several of her patients.
 - c. On November 20, 1998 the Board's Executive Director issued an Order to Submit to Biological Testing and subpoena the patient records of those prescribed Demerol injectible to Respondent.
 - d. Upon receipt of the Board Order and subpoena, Respondent admitted to prescribing Demerol injectible under assumed names as well as forging the prescriptions of her associates. Respondent claimed that she was prescribing the medication due to physical injuries causing chronic pain.
4. In public session, the Board voted on November 23, 1998 that Respondent was medically and/or psychologically unable to engage in the practice of medicine and was an immediate threat to the health and welfare of the public. On November 23, 1998 in public session, the Board agreed to enter into a Stipulation and Consent Order for Suspension of License with Respondent. Respondent agreed to suspend her medical license while she received an evaluation and subsequently, treatment for drug addiction at Springbrook Northwest Rehabilitation Center (hereinafter "Springbrook").
5. On or about November 29, 1998, Respondent entered Springbrook for treatment and rehabilitation of her substance abuse addiction. Respondent successfully completed the treatment program on March 13, 1999.
6. On June 19, 1999, the Board voted in a public meeting to authorize the Executive

Director to sign and issue a Stipulated Consent Order regarding Respondent allowing Respondent to engage in the practice of medicine under a five-year probationary order with terms and conditions including monitoring.

7. On or about April 29, 2000 Respondent appeared before the Board regarding compliance with her Stipulated Consent Order. Respondent had experienced many health-related problems regarding controlled substances since being placed on probation. Respondent and the Board agreed to Amend the Stipulated Consent Order to require Respondent to provide a copy of her Board Order to all treating physicians, including emergency room physicians.

8. On or about May 24, 2000 Respondent required knee surgery and her physician, Dr. Firestone, recommended that she not engage in the practice of medicine or be able to drive for six weeks. The Board's staff allowed Respondent be excused from random urine drug screens as required by her Stipulated Consent Order due to the fact that she was not practicing medicine and would be unable to get to the facility to provide the urine drug screens. On July 7, 2000 Dr. Firestone evaluated Respondent's progress and stated that he allowed her to begin driving.

9. Respondent missed the following urine drugs screens after July 7, 2000: July 15, 2000, July 28, 2000 and August 10, 2000. The Executive Director informed Respondent on August 2, 2000 that she had missed two urine drug screens and that she was required to provide them. The Executive Director also informed Respondent that a "missed" urine drug screen was considered a "positive" urine drug screen. Respondent stated on August 2, 2000 that she would provide them and had misunderstood that she needed to begin providing the urine drug screens again. After the August 2, 2000 conversation between Respondent and the Executive Director, Respondent failed to provide a urine drug screen on August 10, 2000.

10. In public session, the Board voted on August 23, 2000 that Respondent is medically and/or psychologically unable to engage in the practice of medicine and is an immediate threat to the health and welfare of the public.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. § 32-1800, et seq. the Arizona Board of Osteopathic Examiners in Medicine and surgery has subject matter and personal jurisdiction in this matter.

2. The Board has the authority to summarily suspend an osteopathic license pursuant to A.R.S. § 32-1855(C) and § 41-1064 when the physician may not safely engage in the practice of medicine and is an immediate threat to the public's health, welfare and safety.

ORDER

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

1. Pursuant to A.R.S. § 32-1855(C) and § 41-1064, **SUMMARILY SUSPENDING LICENSE NO. 2111 HELD BY MARILYN WELLS, D.O.** for the practice of osteopathic medicine in this State of Arizona effective August 23, 2000 pending further disciplinary proceedings or until further Order of the Board.

2. Pursuant to A.R.S. § 32-1855(C), that MARILYN WELLS, D.O. shall submit himself for such mental, physical or oral or written medical competency examinations or any combination thereof as will be designated by the Board. Such examinations shall be conducted by persons specified by the Board.

EFFECTIVE this 23rd day of August, 2000.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Berger
Ann Marie Berger, Executive Director
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Served by personal service or
sending U.S. certified mail
this 24 th day of August, 2000 to:

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Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St
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Anita Boyd